

Internal Revenue Service

Department of the Treasury

Person to Contact:

Release Number: 201109030

Release Date: 3/4/11

Date: December 8, 2010

Employee ID Number:

Tel:

Fax:

Refer Reply to:

In Re:

EO Revocation

EIN:

UIL: 7428.00-00

Form Required to be Filed:

A

B

Certified Mail

Dear A:

This is a final adverse determination as to your exempt status under section 501(c)(3) of the Internal Revenue Code (IRC). It is determined that you do not qualify as exempt from Federal income tax under IRC Section 501(c)(3) effective January 24, 1996.

The organization is not operated exclusively for an exempt purpose under I.R.C. §501(c)(3). It has operated for a substantial non-exempt purpose by providing private benefits to individuals and entities. Furthermore, the manner in which the organization accepts and holds conservation easements does not further charitable purposes or any other exempt purpose.

Contributions to your organization are not deductible under Code section 170.

You are required to file Federal income tax returns on the form indicated above for all tax years not barred by the statute of limitations. You should file these returns within 30 days from the date of this letter, unless a request for an extension of time is granted. File the returns in accordance with their instructions, and do not send them to this office. Processing of income tax returns and assessment of any taxes due will not be delayed because you have filed a petition for declaratory judgment under Code section 7428.

If you decide to contest this determination under the declaratory judgment provisions of Code section 7428, a petition to the United States Tax Court, the United States Court of Claims, or the district court of the United States for the District of Columbia must be filed within 90 days from the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for filing petitions for declaratory judgment. To secure a petition form from the United States Tax Court, write to the United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

Sincerely,

A handwritten signature in black ink, appearing to read "Charles M.", with a long horizontal flourish extending to the right.

Charles Fisher
Appeals Team Manager



DEPARTMENT OF THE TREASURY

Internal Revenue Service

EQ Examinations

1100 Commerce

Dallas TX 75242

TAX EXEMPT AND GOVERNMENT ENTITIES
DIVISION

March 31, 2008

ORG.
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/(I) Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail Return Receipt Requested

Dear

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EQ Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will, process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Marsha A. Ramirez
Director EQ Examination

Enclosures:
Publication 892
Publication 3498
Report of Examination

Letter 3618 (04-2002)
Catalog Number 34809F

ORG = Organization name XX = Date Address = address City =
city State = state Bayou = bayou County = county DIR-1,
DIR-2 & DIR-3 = 1ST, 2ND & 3RD DIR RA-1, RA-2, RA-3 & RA-4 = 1ST, 2ND,
3RD & 4TH RA CO-1, CO-2, CO-3, CO-4, CO-5., CO-6, CO-7 & CO-8 = 1ST,
2ND, 3RD, 4TH, 5TH, 6TH., 7TH & 8TH COMPANIES

TAX YEAR ENDING DECEMBER 31, 20XX

1. Whether the ORG operates exclusively for an exempt purpose described within Internal Revenue Code section 501(c)(3):
 - a. Whether ORG is engaged primarily in activities that accomplish an exempt purpose?
 - b. Whether more than an insubstantial part of ORG's activities are in furtherance of a non-exempt purpose?
 - c. Whether ORG operated for the purpose of serving a private benefit rather than public interests?

ORG, (hereafter referred to as ORG) located at Address, City, State, was incorporated under the laws of the State of State as a corporation not-for-profit on January 24, 19XX. ORG's Articles of Incorporation were filed with the State Division of Corporations on January 24, 19XX, which under Article III provides it's "Purpose" as follows:

- (a) "The primary purpose for which this Corporation is organized is to provide a vehicle for the acquisition, conservation and maintenance of environmentally sensitive lands, historically significant lands and lands which can be utilized in the furtherance of the education of the people of the CO-1 in relation to the inherent value of good stewardship over the natural, historical and cultural resources of the region."
- (b) "This Corporation is organized and operated exclusively to carry out the social, political and educational activities which support the primary purpose listed above, and no part of any net earnings shall inure to the benefit of an member, director, or officer."
- (c) "This Corporation shall have and exercise all rights and powers conferred upon corporations under the laws of the State of State within the limits of purposes set out in subparagraphs (a) (b) of this article."

On October 17, 19XX ORG filed Form 1023, Application for Recognition of Exemption with the Internal Revenue Service. ORG provided a detailed description of its activities in its Form 1023 application. Part II, Activities and Purpose, provides as follows, “The ORG (“Conservancy”) was established to restore, protect and preserve the historic, ecologic communities of the CO-1 through the restaraunt, management, maintenance. stewardship and acquisition of regional ecosystem components. Major goals of the include:

- Restoration and management of upland and wetland communities
- Maximization of habitat, and the protection of populations of imperiled plant and animal species
- Bridging the gap between local and state preservation and conservation programs
- Definition and implementation of regional significant wildlife corridors

- Enhancement of public education opportunities, particularly as they relate to ecosystem restoration
- Development of cooperative stewardship programs

The _____ feels that the human population is compatible with the attainment of these goals.

ORG governing body includes the following:

DIR-1 — President/Director

Address, City, State

DIR-2 — Secretary/Treasurer/Director

Address, City, State

DIR-3 — Director

Address, City, State

_____ conservation easements were contributed to ORG. The Revenue Agent, accompanied by DIR-2, conducted a field inspection of three of the _____ conservation easement properties. The properties are described below:

(1) The CO-2 (State Limited Partnership) - Perpetual _____

ORG accepted a perpetual _____ contribution by the limited Partnership, "CO-2" here after referred to as CO-2 on April 18, 20XX. The conservation easement is a _____ acre track of land located on the grounds of the resort that is located in City, State. According to the President and Director of ORG, DIR-1, the property is owned by the Home Owners Association, Inc. of the CO-2. CO-2 is a gated condominium / tennis resort located directly on the State. The entrance to CO-2 resort property is guarded by a security guard twenty-four (24) hours a day. Access to the resort and the conservation easement property is restricted to residents and their guests. _____ general public is not allow to enter the resort property without the permission of the condominium association or condominium owners. The _____ property is located within the resort development beside two owner occupied high rise condominium buildings. The _____ property is not beach front nor is it an environmentally sensitive area of land. The _____ property donated to ORG is approximately two-thirds storm water retention area and one third miniature golf course. The miniature golf course is used for the recreation and pleasure of the residents of CO-2. The storm retention area was created in this resort location for the purpose of collecting rising tidewater from the State during storms and also lowered the property owners insurance premiums.

CO-2 condominium unit owners voted to create the _____ and to donate the easement to ORG. An appraisal of the _____ property was made prior to the donation of the conservation easement property to ORG.

The CO-2 _____ does not qualify as an tax exempt conservation easement as defined in IRC section 501 (c)(3) and does not meet the definition of a qualified _____ in accordance with Revenue Ruling 70-186, 1970-1 C.B. 129.

The CO-2 condominium owners took charitable contribution deductions on their tax return for their share of the appraised value of the _____ contribution.

The charitable contribution deduction taken by CO-2 condominium owners on their tax returns was not a qualified charitable contribution. The donated _____ was not donated for a conservation purpose and was not a qualified charitable _____

(2) CO-3 Perpetual Conservation Easement granted by CO-3 to the ORG

CO-3 here referred to as CO-3, donated in perpetuity a conservation easement of 30 acres to ORG on June 2, 19XX. The _____ is located on _____ is a small bayou that is connected to a much larger body of water City in south County, State. According to the officers of ORG, CO-3 initially purchased the _____ property as part of a larger land purchase. CO-3 originally purchased 65 acres of property in a home building venture where he had planned to build and to sell homes for a profit. The State Department of Environmental Protection (File #) required that CO-3 set aside approximately 30 acres of wetlands adjacent to the project site in 19XX in order for CO-3 obtain permits to construct a drainage ditch and to subdivide the remaining _____ acres into single family home building sites.

The agent observed illegally dumping, abandoned home appliances and garbage on the _____. In addition, the examining agent observed evidence where four wheel drive vehicles have driven over the sensitive wetland grasses that are the habitat for marine sensitive marine species that live in the wetlands. The purpose of the _____ is to assure that the subject lands and wetlands will be retained and maintained forever predominantly in the vegetative and hydrologic condition existing at the time of execution of this _____. The _____ prohibits the following activities:

Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground; Dumping or placing of soil or the substances or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials; Removal or destruction of trees, shrubs, or other vegetation; with the exception of nuisance and exotic plants species as be required by Grantee; Excavation, dredging, or removal of lam, peat, gravel, soil, rock or other materials in such a manner to effect the surface.

(3) CO-4 — _____ Deed

CO-4 is a small residential community located on the north side of City in County, State. The community is made up of large water front residential lots and wooded interior lots that are not waterfront property. CO-4 donated easement lots within the subdivision to ORG on February 2, 19XX. The purpose of the _____ to assure that the subject lands and wetlands will be retained and maintained forever predominantly in the natural vegetative and hydrologic condition existing at the time of the execution of this _____. The included wetlands which are to be enhanced or created shall be maintained forever in the enhanced or created conditions required by the aforementioned permit. CO-4 is an exclusive small waterfront residential development located in County, County State. Subdivision lots were identified between home sites as conservation property to add wooded space between the existing homes located in the subdivision. The _____ properties were found to be very high and dry sandy lots that were donated to ORG as _____ property. The U.S. Army Corps of Engineers (ACOE) issued a permit to CO-4, Inc. (file no. 19XX-02186 (IP-JG)) that allowed impacts to approximately 22 acres of ACOE jurisdictional wetlands. In exchange for the permit, CO-4, Inc. agreed to an onsite preservation and restoration plan. A large part of this plan was the removal of planted pine trees, and the implementation of a long-term prescribed fire management program to restore historic wet fatwood communities. The examining agent noted from pictures

provided by the organization that there is evidence of some monitoring of the easement where burning of the conservation area was performed as a fire management tool (restore the prairie type ecosystems that once existed when natural lighting fires were a dominant force in this area of the country). ORG did collect funds for the management of the areas claiming to be property. These collected funds were used to conduct a controlled burn as a means of property monitoring to prevent forest fires.

The controlled burn was conducted to limit property damage from natural light created forest fires. The controlled burn was confined only to the lots in CO-4 Homeowners association. The residents of CO-4, who are the members of CO-4, were the primary beneficiaries of the exempt organization that thinned the under brush of community lots reducing a localized risk to properties owners living in CO-4.

CO-4's, made up of home owners residing in CO-4, donated the property to ORG. The Internal Revenue Agent conducting the examination of ORG noted there was substantial encroachment by the residential homeowners on and into the property area while conducting a field inspection of the property. The Officers and Directors of ORG admitted that ORG has made no attempts to take legal action to correct the *following* encroachments to conservation easement property donated by CO-4 to ORG:

- Two large ponds were developed in the property for the pleasure and recreation of the residents of CO-4, Inc.
- A boat / recreational vehicle storage facility with built on the property for the exclusive use of the residents of CO-4, Inc.
- An elevated wooden walkway was built into and over the wetlands located on the association's property for the recreation and pleasure of the residents of CO-4, Inc.

Revenue Ruling 70-186, 1970-1 C.B. 129, 1970 WL 20786 provides that a nonprofit organization formed to preserve and improve a lake used extensively as a public recreational facility qualifies for exemption under section 501(c)(3) of the Code.

IRC Section 501(c)(3) provides for the exemption from Federal Income Tax of organizations organized and operated exclusively for charitable purposes.

Federal Regulation Section 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized or operated exclusively for one or more exempt purpose unless it serves a public rather than a private interest.

Federal Regulation Section 1.501(3)-1(d)(2) provides that the term "charitable" in used in IRC section 501(c)(3) in its generally accepted legal sense and includes, among other things, the erection or maintenance of public buildings, monuments, or works, and the lessening of the burdens of Government.

The large ponds, boat/recreational vehicle. storage facility and elevated wooden walkway built on the conservation easement property was built for the use of home owners living in the small and private residential community of "CO-4".

The two properties the Revenue Agent was unable to inspect were as follows:

(4) CO-5

Contribution of the CO-5 was made on December 7, 20XX by the individual and general partners of CO-6, A State General Partnership. The partners are RA-1, RA-2, RA-3, and RA-4. ORG accepted this "limited" conservation easement on December 7, 20XX and as stated in the document the expires on January 1, 2011.

The exempt organization accepted this easement for only a limited time period of approximately ten (10) years.

The limited provisions also restrict the use of the property to specific exceptions and reservations such as no buildings, roads, signs, dumping, removal or destruction of trees, vegetation, water, drainage, and wet areas.

The is a acre property that is rectangular in shape. One side of the property borders which is an inter-coastal waterway. During the year ending December 31, 20XX (the examination year) the property is fenced with a locked gate. According to ORG the donor of the conservation easement has the only key to open the gate.

ORG President/Director, DIR-1 and DIR-2, Treasurer/Director stated to the examining Revenue Agent the is permanently restricted closed to public use by the fence and a locked gate where only the donor can unlock the gate.

During the examining agents opening interview of ORG President/Director, DIR-1 and DIR-2, Treasurer/Director statements were made by DIR-1 and DIR-2 to examining Revenue Agent the CO-5 property is exclusively for the personal use of the donor and his family for reunions and other private functions.

(5) CO-7 - Donated a Perpetual to ORG over acres of wetlands In 19XX

Grant of , including a Deed, was granted to **ORG in perpetuity** by CO-7 on March 20, 20XX. This was associated with CO-7 being issued County Permit No. to fill approximately one quarter of one acre of wetlands in County as part of a commercial development project. As part of the permit agreement, CO-7 has agreed to place acres in 19XX in a conservation for the purpose of leaving the property in its natural vegetative and hydrologic condition existing at the time of the execution of the Deed. The acres of property was deeded to ORG March 20, 20XX. The acres is in a wetlands area adjacent to the State owned CO-8 and is not accessible by a truck. The monitoring of the CO-7 conservation has only been made by aerial photograph. The last aerial photograph was in 20XX and according to ORG there have been no negative impact to the area. Monitoring of the was not made in years 20XX or 20XX.

Indenture

The CO-5, 45 acre property is limited to a ten-year term. After ten years from the date the contribution of the easement is made, the purpose is expired and the donor of the contribution easement property would be entitled to use the property for any non-conservation purpose.

IRS Determination Letter

In its Form 1023 application for recognition of exemption, ORG requested that it be recognized as a publicly supported organization described section 509(a)(2) of the Code. Section 509(a)(2) describes organizations that normally receives not more than one-third of its support from gross investment income and more than one-third of its support from contributions, membership fees, and gross receipts from activities related to its exempt functions (subject to certain exceptions).

The examination of the records of the ORG revealed that substantially all of its sources of income were received from monitoring fees it collected from easement properties it received and these sources of income do not qualify as public support in meeting tests required to qualify as a public foundation under IRC Section 501 (c)(3) of the Code and Federal Regulations.

The Income Statement and Balance Sheet reported Sources of income, Assets and Liabilities as follows for the year ending December 31, 20XX: Dividend and Interest income \$, Total Cash Assets \$ and Total Liabilities \$0.

The Internal Revenue Service issued an advance ruling determination letter to ORG on January 22, 19XX because it was a newly created organization and could not make a final ruling of its private foundation status. Based on the financial information submitted by ORG with its application for exemption the Internal Revenue Service determined that ORG could reasonably be expected to be a publicly supported organization described in section 509(a)(1) or 509(a)(2) of the Code. Later, after an advance ruling follow up of ORG, on October 15, 20XX an adverse ruling letter was issued to ORG to reclassify the organization as a private foundation described in section 509(a). ORG received substantially all of its income from monitoring fees which do not qualify as public support needed to qualify as a publicly supported foundation.

The Internal Revenue Service determination letter informed ORG of the following:

“You are required to file Form 990-PF, Return of Private Foundation or Section 4947(a)(1) Trust Treated as a Private Foundation. Form 990-PF must be filed by the 15th day of the fifth month after the end of your annual accounting period. A penalty of \$ a day is charge when a return filed late, unless there is reasonable cause for the delay. However, the maximum penalty charged cannot exceed \$ or 5 percent of your gross receipts for the year whichever is less.” ORG realized \$ in gross receipts and total assets from monitoring fees collected of \$ as of December 31, 20XX

LAW AND ARGUMENT

Section 501(c)(3) of the Code provides for the exemption from federal income tax of corporations organized and operated exclusively for charitable or educational purposes, provided no part of the net earnings inures to the benefit of any private shareholder or individual.

Section 1.501 (c)(3)- 1(c)(1) of the Income Tax Regulations provides that an organization operates exclusively for exempt purposes only if it engages primarily in activities that accomplish exempt purposes specified in section 501(c)(3) of the Code. An organization must not engage in substantial activities that fail to further an exempt purpose. In Better Business Bureau of Washington, D.C. v. United States, 326 U.S. 279, 283 (1945), the Supreme Court held that the “presence of a single... [nonexempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly... [exempt] purposes.”

Treasury Regulation Section 1.501 (c)(3)- 1 (d)(1)(ii) provides that an organization is not organized or operated exclusively for exempt purposes unless it serves a public rather than a

private interest. To meet this requirement, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests.

Treasury Regulation Section 1.501(c)(3)-1(d)(2) defines the term "charitable" as used in section 501(c)(3) of the Code as including the relief of the poor and distressed or of the underprivileged and the promotion of social welfare by organizations designed to lessen neighborhood tensions, to eliminate prejudice and discrimination, or to combat community deterioration. The term "charitable" also includes the advancement of education.

IRC section 170(h)(1) states that the term "qualified organization" means a contribution of a qualified real property interest, to a qualified organization, exclusively for conservation purpose.

IRC section 170(h)(2) states that the term "qualified real property interest" means any of the following interests in real property:

- The entire interest of the donor other than a qualified mineral interest; - a remainder interest, and - a restrictive (granted in perpetuity) on the use which may be made of the real property. IRC section 170(h)(3) states that the term "qualified organization" means an organization which: - is described in clause (v) or (vi) of subsection (b)(1)(A), or - is described in section 501(c)(3) and meets the requirements of section 509(a)(2), or meeting the requirements of 509(a)(3). IRC section 170(h)(4) states that the term "qualified real property interest" means: - the preservation of land areas for outdoor recreation by, or the education of, the general public; - the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem; - the preservation of open space where such preservation is for the scenic enjoyment of the general public, or pursuant to a clearly delineated Federal, State, or local government policy, and will yield a significant public benefit, or the preservation of an historically important land area or a certified historic structure.

IRC 170(h)(1) provides that the term "qualified organization" means a contribution (A) of a qualified real property interest, (B) to a qualified organization (C) exclusively for conservation purposes.

IRC 170(h)(2) provides that a qualified real property interest for the purpose of a qualified conservation contribution means any of the following in real property:

(A) the entire interest of the donor other than a qualified mineral interest

(B) a remainder interest, and

(C) a restriction (granted in Perpetuity) on the use which may be made of the real property.

IRC 170(h)(3) provides that the term "qualified organization" mean an organization which —

(A) is described in clause (v) or (vi) of subsection (b)(1)(A), or

(B) is described in IRC section 501(c)(3) and -

(i) meets the requirements of section 509(a)(2), or

(ii) meets the requirements of section 509(a)(3) and is controlled by an organization that is

Described subparagraph (A) or in clause (i) of this subparagraph.

(4) purpose defined.

(A) In general. For purposes of this subsection, the term "qualified real property interest" means - (i) the preservation of land area for outdoor recreation by, or the education of, the general public,

(ii) the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystems,

(iii) the preservation of open space (including farmland and forest land) where such preservation is -

(I) for the scenic enjoyment of the general public,
or

(II) pursuant to a clearly delineated Federal, State or local governmental policy, and will yield a significant public benefit, or

(vi) the preservation of an historically important land area or a certified historic structure.

IRC section 170(h)(5)(A) states that conservation purpose must be protected. A contribution shall not be treated as exclusively for purposes unless the purpose is protected perpetuity.

Contributions of that are not for the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystems, that restrict the entrance of the general public from their benefit and education, that benefit only a private residential community of home owners, that restrict entrance to only the easement contributors, that are not donated in perpetuity, that are not monitored by the exempt organization on a regular basis do not qualify as charitable conservation easement contributions as defined under the Code sections and revenue ruling as stated in law section of this Revenue Agent's report.

Revenue Ruling 70-168 describes a nonprofit organization formed to preserve and improve a lake used extensively as a public recreational facility qualifies for exemption under section 501(c)(3) of the Code.

Revenue Ruling 70-186, 1970-1 C.B. 129, 1970 WL 20786 provides that a nonprofit organization formed to preserve and improve a lake used extensively as a public recreational facility qualifies for exemption under section 501(c)(3) of the Code.

IRC Section 501(c)(3) provides for the exemption from Federal Income Tax of organizations organized and operated exclusively for charitable purposes.

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Federal Regulation Section 1.501(3)-1(d)(2) provides that the term "charitable" in used in IRC section 501(c)(3) in its generally accepted legal sense and includes, among other things, the erection or maintenance of public buildings, monuments, or works, and the lessening of the burdens of Government.

IRC section 6033 states that every organization exempt from taxation under section 501(a) shall file an annual return stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and shall keep such records, render under oath such statement, make such other returns, and comply with such rules and regulations as the may from time to time prescribe.

GOVERNMENTS POSITION

The organization has accepted the donation of properties that do not qualify as such under the Code. The CO-2 easement contains a private miniature golf course and does not serve a purpose.

The organization has not properly monitored and enforced the that it has accepted. The

organization has allowed the CO-3 property be damaged by illegal dumping and vehicles. The organization has allowed the CO-4 property to be developed in violation of the easement indenture. The organization has not adequately monitored the CO-7 either.

The CO-5 is a limited duration . Therefore it is not a qualified easement under IRC section 170(h)(5)(A).

ORG is not operating exclusively for an exempt purpose as defined in IRC Section 501(c)(3) and IRC Section 170 (h), because more than an insubstantial part of ORG activities are in furtherance of a non-exempt purpose.

The non-exempt purpose of accepting non-qualifying conservation easement contributions by ORG serves the private interest of donors rather than an IRC 501(c)(3) purpose.

Accordingly, ORG does not qualify for exemption as an organization described in section 501(c)(3) of the Code.

Contributions to ORG are not deductible by contributors under section 170 of the Code.

ORGANIZATION'S POSITION

The Agent does not have a position from the organization at this time.

CONCLUSION

The examination of ORG by the Internal Revenue Service concludes it was not operated as it provided in its application for exemption. Our examination concludes that ORG is accepting donations from donors that do not qualify as conservation easements under the Internal Revenue Code and Regulations.

In summary, ORG is not operating exclusively for an exempt conservation easement purpose as defined in IRC Section 501(c)(3) and IRC Section 170 (h), because more than an insubstantial part of ORG activities are in furtherance of a non-exempt purpose. The non-exempt purpose of accepting non-qualifying conservation easement contributions by ORG serves the private interest of donors rather than an IRC 501(c)(3) purpose. The examining agent recommends that exempt status held by ORG be revoked effective January 24, 19XX.